UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1158
1 September 1992

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE

Forty-fifth session

SUMMARY RECORD OF THE 1158th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 20 July 1992, at 10 a.m.

Chairman: Mr. POCAR

CONTENTS

Consideration of reports submitted by States parties under article 40 of the Covenant (continued)

Second periodic report of Peru (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.92-16490/4847B (E)

The meeting was called to order at 10.25 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of Peru (CCPR/C/51/Add.4, 5 and 6) (continued)

1. At the invitation of the Chairman, Ms. Linares Arenaza, Mrs. Silva y Silva, Mr. Revilla and Mr. de Rivero (Peru) took places at the Committee table.

2. The CHAIRMAN recalled that, in accordance with the decision taken by the Committee at its 1148th meeting, the Peruvian Government had submitted information (CCPR/C/51/Add.5) as a follow-up to the consideration of the second periodic report of Peru (CCPR/C/51/Add.4) and, moreover, in accordance with a decision taken at the same meeting, had submitted an addendum (CCPR/C/51/Add.6) relating in particular to the application of articles 4, 6, 7, 9, 19 and 25 of the Covenant. The Bureau had decided that the Committee would take note of the replies contained in document CCPR/C/51/Add.5 without further consideration. The Committee was accordingly invited to consider the additional information contained in document CCPR/C/51/Add.6 and subsequently to make its final comments on the second periodic report of the State party as a whole.

3. If the Committee had no objection, the Peruvian delegation purposed to show a video cassette as a supplement to its oral presentation.

4. Mrs. HIGGINS welcomed the resumption of dialogue with the representatives of the Peruvian Government. However, she had serious doubts about permitting the showing of a video cassette as that would be entirely contrary to the Committee's normal procedure and would risk creating a dangerous precedent, which would open the way to unfortunate practices, particularly as the Committee's time was valuable and the number of meetings allocated for consideration of the reports of each State party was limited.

5. Mr. SADI said he was afraid that he could not share Mrs. Higgins' opinion. In his view there was nothing to prevent the Committee from developing its practice in a positive manner. The showing proposed by the Peruvian delegation might enable the Committee to obtain useful information regarding actual events which had taken place recently in the State party.

6. Mr. PRADO VALLEJO said he was not opposed to the use of new methods which could help the Committee in the performance of its work. In the current case however, he doubted whether the showing of the video cassette, which was probably intended to illustrate acts of violence committed by Shining Path in Peru and the efforts made the Government to restore peace, would really provide information not already available to the Committee. Moreover, the Committee would risk putting itself in a delicate situation by creating a precedent which would oblige it to accede to similar requests from other States parties in the future.

7. Mr. WENNERGREN said he appreciated the proposal made by the Peruvian delegation to provide the Committee with maximum information and was not opposed to the showing of the video cassette if it enabled the Committee to obtain new information. However, if it was only going to illustrate terrorist acts committed in Peru, it was his view that members of the Commitee were already sufficiently well informed. It would therefore be preferable to ask the Peruvian delegation what was the nature of the information contained in the cassette in question.

8. The CHAIRMAN invited a member of the Peruvian delegation to indicate the subject-matter of the cassette.

9. Ms. LINARES ARENAZA (Peru) said that the Peruvian delegation considered that it would be useful to show the video cassette to the Committee in order to illustrate not only the nature of the violent acts perpetrated by terrorist groups, including Shining Path, but also the methods employed by those groups in pursuit of their indoctrination campaigns, particularly inside prisons, their military practices and, generally speaking, the level of violence which had been reached in the country.

10. Miss CHANET said that she was not opposed to the showing of the cassette. In her view, members of the Committee certainly had enough acumen to assess the value of the information provided by the film. Moreover, on the question of principle, under article 40 of the Covenant States parties undertook to submit reports, but it was not said that the use of modern communications media was excluded. The issue was basically to ensure respect for the freedom of expression of States parties.

11. Mr. EL SHAFEI said he did not think that the Committee had ever lost its critical faculty in respect of information received from States parties in whatever form. There was accordingly little danger in showing a video cassette. Furthermore, the State party was fully entitled to submit to the Committee all information which it considered useful and the Committee had no reason to try and determine in advance the nature of the information which would be presented to it.

12. Mr. MULLERSON said he did not think that showing the video cassette would really provide the Committee with information on acts of violence in Peru additional to what it had already received during its meetings at the previous session and what was available from other sources. Bearing in mind that the Committee's time was limited, he did not consider that showing the video cassette as proposed by the Peruvian delegation would serve any useful purpose.

13. Mr. AGUILAR URBINA recalled that article 19, paragraph 2, of the Covenant stipulated that everyone should have the right to seek, receive and impart information, either orally, in writing or in print, in the form of art "or through any other media of his choice".

14. Mr. DIMITRIJEVIC, speaking on a point of procedure, said that it would be difficult to consider the issue in a public meeting and he therefore proposed that it should be included in the agenda of a later private meeting of the Committee.

15. Mr. NDIAYE observed that, on the contrary, the Committee could not abandon its consideration of an important question which had been initiated publicly. As a matter of courtesy, the Committee should give close attention to the proposal of the Peruvian delegation and, in the interests of objectivity, should view the video cassette in order to form its own opinion on the information thus provided. Finally, in accordance with the provisions of the Covenant, States parties were simply required to report to the Committee: the means to be used for so doing were not specified.

16. Mr. LALLAH considered that the discussion should continue in public. States parties certainly had rights and could submit all the information they wished through any medium whatever, but they also had a duty to respect the Committee's rules of procedure, which were universally applicable to all States parties. In that connection, it had been established that information provided by States parties should reach members of the Committee in advance so that the latter could perform their duties properly.

17. Mr. HERNDL considered that the Committee was not required to view the proposed video cassette. Moreover, it should beware of creating a precedent which might have irreversible consequences; it should weigh the issue carefully before taking any decision.

18. Mr. ANDO said he did not object to the showing of the video cassette as part of the oral presentation by the delegation of the State party provided that the Committee's work was not thereby delayed. The Committee could take a decision at a later stage on the substantive issue which had been raised.

19. Mr. WENNERGREN recalled that, under rule 38 of the Committee's rules of procedure, "... the Chairman may call a speaker to order if his remarks are not relevant to the subject under discussion". The Committee could therefore view the cassette on the understanding that the Chairman could interrupt the showing if he considered it necessary.

20. The CHAIRMAN invited Mr. Oswaldo de Rivero, Permanent Representative of Peru to the United Nations Office at Geneva, to comment on the points raised by members of the Committee.

21. Mr. de RIVERO (Peru) expressed surprise at the lengthy discussion arising from the proposal of the Peruvian delegation merely to show a 10-minute video cassette - a modern communication medium used by a great many bodies in which the right to receive and transmit information was recognized. His delegation considered that the showing of the cassette constituted an integral part of its oral presentation and it feared that, if it refused to see the film, the Committee might create a dangerous precedent by limiting the freedom of States parties to transmit what they considered to be essential information. Accordingly, if it were to come to light that the Human Rights Committee in Geneva had refused to view a video cassette on the situation of violence prevailing in Peru, those principally concerned, namely the victims of terrorism themselves, would lose all confidence in United Nations organs. Moreover, it would be very surprising if the members of the Committee were no longer able to exercise their judgement after seeing the cassette in question.

22. Mr. DIMITRIJEVIC said that, without creating a precedent, the Committee could decide to view the video cassette on the understanding that it should subsequently review its rules of procedure so as to adapt them to modern communications media and should clarify the rules applicable to the oral presentation of reports (duration and media employed).

23. Mr. SADI noted that video cassettes were used by such bodies as courts and parliaments. He considered that, in the interests of friendly dialogue with the Peruvian delegation, the Committee should agree to view the cassette.

24. Mr. PRADO VALLEJO thought that, as a matter of courtesy, the Committee should accede to the request of the Peruvian delegation, without prejudice to a subsequent review of its rules of procedure.

25. The CHAIRMAN said it was his understanding that the majority of members of the Committee were in favour of allowing the Peruvian delegation to show a short video cassette as part of its oral presentation; in accordance with rule 38 of the rules of procedure, he suggested that the request of the Peruvian delegation should be granted.

26. It was so decided.

27. Ms. LINARES ARENAZA (Peru) thanked the Committee for granting Peru's request and allowing the State party to answer only at the current forty-fifth session the many important questions asked at the forty-fourth session, as well as to submit a supplementary report (CCPR/C/51/Add.6), together with additional information communicated by the Peruvian Government (CCPR/C/51/Add.5) as a follow-up to the consideration of the second periodic report of Peru (CCPR/C/51/Add.4).

28. The violence unleashed by terrorist groups in Peru had been illustrated yet again in recent days by the explosion in Lima of two car bombs, loaded with 200 kg and 120 kg of explosives respectively, which had caused more than 20 deaths and 200 grave injuries as well as material damage over a wide area. The toll exacted by violence was still heavier when all the innocent lives that were sacrificed every day were taken into account. That was the context in which the Peruvian delegation would like the Committee to examine the legal and practical steps taken by the country's authorities to ensure respect for human rights, particularly those enshrined in the International Covenant on Civil and Political Rights. In that connection, she recalled Commission on Human Rights resolution 1992/42, which stated that acts of violence by armed terrorist groups and drug traffickers hampered the full exercise of human rights (second preambular paragraph). That was also the context in which the authorities' efforts to ensure the implementation of the articles of the Covenant should be set, and the difficulties which it encountered taken into consideration.

29. Among the main provisions enacted in Peru, she first cited Legislative Decree No. 652, which established the Council for Peace, consisting of representatives of national bodies, to be responsible for implementing the plan of national pacification, regarded by the Government as a priority. There was also the National Fund for Compensation and Social Development, which had been set up to finance infrastructure creation projects and the

start-up of activities of social interest in the fields of health and education. The establishment of the National Programme of Food Assistance (PRONA), to help improve diet and nutrition, was also noteworthy. Again in the social field, a special commission had been instructed to prepare the National Plan for Children (1992-1995). The Office of Support for Self-Management in Marginal Urban Areas had been set up to support and finance social projects, particularly in the marginalized urban districts of Lima and Callao.

30. Among measures taken to promote respect for and protection of human rights, Legislative Decree No. 665 authorized procurators or examining magistrates, in areas where a state of emergency had been proclaimed, to enter police stations or "prefectures", military installations and any other place of detention in order to verify the situation of persons who had been detained or to investigate complaints regarding disappearances.

31. Decree Law No. 25499 set out the conditions in which persons accused of the crime of terrorism could benefit from measures of reduction, exemption, postponement or commutation in respect of their sentence. Decree-Law No. 24590 established a Ministry of the Office of the President (Ministerio de la Presidencia) to respond to the needs of the population through infrastructure works and social support programmes.

32. Under Decree-Law No. 25582, anyone who, while under police investigation or judicial examination, provided truthful and useful information was exempted from any penalty. Decree-Law No. 25592 provided penalties for acts causing the disappearance of persons committed by officials or agents of the State, and also established a national registration service for complaints of cases of disappearance, to be set up in each police subdivision and work in direct coordination with the Office of the Attorney-General of the Nation.

33. As part of the practical steps taken through the Attorney-General of the Nation, she drew attention to programmes designed to speed up the investigations carried out by the Public Prosecutor's Department, in particular into complaints of cases of disappearance. Directives had been issued on the operation and organization of the various provincial prosecutors' offices, always with a view to speeding up investigations, particularly into cases involving human rights. The Office of the Attorney-General of the Nation had also organized a programme of seminars and conferences on the full exercise of human rights, a programme geared not only to representatives of the prosecuting authorities but also to representatives of the armed forces and the police forces as well as the public at large. Lastly, the Office of the Attorney-General of the Nation was in the process of setting up a national register of persons under detention which would make it possible to obtain the necessary information on any case of detention, wherever it occurred. The registration system was administered by the Public Prosecutor's Department under the direction of the Office of the Attorney-General of the Nation, and had been set in place with assistance from the United States Government and the Latin American Institute for the Prevention of Crime and the Treatment of Offenders. There was also a proposal from the Ministry of Justice that members of the Office of the Attorney-General of the Nation and of the Ministry of Defence should sit on the National Council for Human Rights, set up by Supreme Decree No. 012 of 1986, which would allow all the institutions dealing with the protection and implementation of human rights to be represented on it.

34. It should be emphasized that Peru was not a country where the International Covenant on Civil and Political Rights was systematically violated, nor was it a country where there was permanent impunity for the authors of certain isolated acts which might have been committed by the Government side in the course of implementing anti-terrorist policy or carrying out the campaign against drug traffickers.

35. By watching the video cassette that was about to be shown to them, on which she would provide a running commentary, the members of the Committee would be able to form an idea of the various forms of terrorist violence in Peru, of the daily lives of Peruvians under attack, and above all, of the methods of training and indoctrination used by terrorist groups, particularly Shining Path. The pictures that would be shown to the Committee were extracts from various news programmes put out by the different Peruvian television channels, not all of which were in agreement with Government policy.

36. The first sequence showed what was left of the technical centre of Huaval, completely destroyed by a terrorist attack in which three foreigners, international technical cooperation workers, had died. It was followed by sequences on outrages against civilians, the destruction of the national electric power grid, attacks on the country's industry and attacks on schools in central districts of the city of Lima.

37. The next sequences related to outrages in rural areas in the interior of the country and also showed the "peasant patrols" ("rondas campesinas") spontaneously created by the population out of the need to defend themselves and resist terrorist violence. The peasants made some of their own weapons out of the materials at their disposal, in order to defend their crops and their very existence. The patrols were not subject to any politico-military command apparatus, but they were inspected; they were not without precedent in the history of the Peruvian people. Those "rondas campesinas" had become the target of terrorist attacks, since their existence was a sign of the failure of the terrorist movement's efforts to infiltrate the population.

38. Next came a sequence showing the members of the Shining Path leadership, with "Presidente Gonzalo" (A. Guzman Reinoso) among others, holding a party to celebrate the anniversary of a terrorist act. That type of anniversary, however, was also marked by other outrages and attacks organized throughout the country. The sequence in question had been filmed in one of the places where leaders of Shining Path had stayed and made it possible to see the faces of some of the movement's principal ideologists, those responsible for the policy of terror that was raging in Peru and preventing the full exercise of human rights.

39. It was followed by a sequence showing other types of attacks which had taken place at different places in rural areas, and shots showing the way in which the two terrorist movements, Shining Path and the Tupac Amaru Revolutionary Movement, infiltrated into urban areas, where they organized attacks, for example near the Palacio del Gobierno and the headquarters of the country's judicial institutions. Another sequence showed the activities of the two movements in some working class districts of Lima (Cerro del Pino). Statistics were then shown indicating the towns and departments in Peru which had experienced the largest number of terrorist outrages, Lima having been the main target with 290 such attacks up to April 1992.

40. The following sequence, filmed inside a prison in Lima, showed indoctrination sessions, with marching and chanting, organized in the prison by members of Shining Path who defended terrorism and Marxist-Leninist-Maoist ideology as well as the "Thoughts of President Gonzalo" advocating chaos and destruction throughout the country. Many attacks had been planned in that prison. The Committee would also see a play, performed before members of the families of imprisoned terrorists, showing the assassination, by a member of Shining Path, of two representatives of the armed forces and the police. The film had been found in a police raid on a house which had been used at one time as a residence by Shining Path leaders.

41. The following pictures showed the woman leader of a number of people's organizations, mayor of a Lima district and head of various mothers' clubs, children's meals' clubs and people's canteens, explaining to the district's inhabitants that the Shining Path movement was against the people and not at all active in the cause of justice. She was then seen opening a people's canteen. That exemplary woman, who had advocated that terrorism should be combated not with weapons but with good works through grassroots organizations, had been assassinated by Shining Path in February 1992, at the very time that the Commission on Human Rights had been meeting in Geneva.

42. The last shots showed the destruction caused by three recent attacks by Shining Path, using trucks and other vehicles loaded with explosives.

43. Her delegation had wished to show the film, not out of sensationalism, but so that the Committee could sense the reality of everyday life in Peru and understand better the context in which the Government's efforts to implement the rights enshrined in the Covenant should be viewed.

44. The CHAIRMAN invited the members of the Committee to make comments and ask questions about the additional information provided by the Peruvian Government (CCPR/C/51/Add.5 and 6) article by article, beginning with article 4.

45. Mr. PRADO VALLEJO welcomed the presence before the Committee of the Ministry of Justice attachée, which was symbolic of the increasing role played by women in Peru. The submission of additional reports and the showing of the film were indications of the spirit of cooperation motivating the Peruvian delegation.

46. Regarding the state of emergency, covered in article 4 of the Covenant, it was difficult to have a clear idea of the position. Both additional reports dealt only with the legal situation, whereas that situation could not be dissociated from the situation in practice, which called for comments. Atrocities were undoubtedly being committed by Shining Path and should be condemned by the Committee and all people of goodwill; however, despite the fact that the most recent documents from Peru had been drafted after the coup d'état, they contained no mention of the means deployed by the Government to give effect to human rights in a situation of widespread crisis and violence. One of the additional reports (CCPR/C/51/Add.5) simply indicated that the judicial machinery continued to function, even during the state of emergency, and that all guarantees were respected. However, the Committee still did not know which rights had been suspended during the state of

emergency - although certain of the rights set forth in the Covenant could not be the subject of any suspension or derogation - and which remained in force. There was all the more reason for it to be concerned since the legal and judicial system of Peru had changed drastically since the time when the Committee had begun its consideration of the second periodic report. Thus, the judicial power was no longer at all independent, since all the members of the courts had been removed from office, which had temporarily paralysed the judicial system, and been replaced by judges appointed directly by the President of the Republic. In such a situation, it could only be wondered what exactly was the current situation with regard to the exercise of human rights in Peru.

47. He drew the attention of the Peruvian delegation to paragraph 8 of document CCPR/C/51/Add.5, which stated: "... when the armed forces assume control of internal order ... that does not imply that the Government Procurator's Department and the Judicial Power do not perform the judicial functions that fall to them under the Political Constitution of Peru". That statement raised a problem, for there was no longer a Political Constitution of Peru. Thus questions might be raised on the general functioning of the administration of justice. The same report stated that the President of the Republic had authorized Government procurators to enter police stations, detention centres and all prison establishments to verify conditions of detention; however, the Committee had pointed out at its forty-fourth session that such orders were not respected and that the military prevented the procurators, as well as the Red Cross, from entering the detention centres. Now that power was monopolized by the President of the Republic, could the Committee rest assured that the military respected his instructions?

48. Although there was no contesting the need for every society to defend itself against terrorist violence and to punish those responsible, the fact remained that the offences committed by the two terrorist movements in Peru were only one aspect of the situation. A number of reliable sources of information confirmed the fact that the armed forces and the police were also responsible for some very serious human rights violations. The film that had just been viewed had shown bomb attacks attributable to Shining Path, but dozens of bodies bearing marks of torture had been found in common graves dug by the armed forces. In the departments that were placed under the control of the armed forces as part of the state of emergency, the people suffered two sorts of violence. The "peasant patrols" ("rondas campesinas") had been set up to deal with Shining Path, but some were in the service of the security forces, which armed them to fight other peasants suspected of Shining Path sympathies. Thus the persecution against peasants in those regions came from both Shining Path and the State forces. It was therefore the State's duty to halt the terrorist violence, but also to stop the crimes of its own armed forces. However, according to the latest information available, nothing had been done to bring those responsible before the courts, or even to inquire into the crimes committed, and the number of disappeared persons was constantly increasing. It might be wondered what the new judges directly appointed by the President of the Republic were doing. In addition, the armed forces participated in the drug traffic by taking a percentage of the income from drug sales and by liquidating those who refused to pay, as had been explained at the latest session of the Andean Commission of Jurists, held at its headquarters in Lima. The film had also shown a Shining Path indoctrination session in a Lima prison, but it should be borne in mind that

approximately one month earlier a very large contingent of soldiers with machine-guns had attacked a prison establishment, reduced it to ashes and killed an appalling number of people.

49. He strongly refuted the statement in paragraph 9 of document CCPR/C/51/Add.6 according to which few international human rights organizations cared about orphans and widows and "their indifference has given rise in Peru to the idea that only terrorists who are free or imprisoned possess human rights". There was no justification for such a statement, and everyone knew that all the human rights defence organizations were concerned about the civilian population. The situation in Peru was very complex, however, and the bodies dealing with human rights therefore called upon all the State authorities to act both against terrorist violence and against violence from their own security forces.

50. The same document stated that the Government, determined to overcome the current political emergency, had decided to call elections for November 1992 with a view to designating the members of a constituent assembly. It explained that the constitutional order had had to be disrupted because of the general chaos and the corruption of judges and all the State bodies. If that was the case, it might be wondered why the new members of Congress should be any better than the previous ones and whether the drawing up of a new Constitution by the same political parties as before would dispel the chaos and corruption. It was difficult to accept the idea that a dictatorship was being set up under the pretext of instituting a democracy. The new State institutions, which would emerge from the same procedures, would do exactly what the previous ones had done, and it was highly doubtful that the result would be a new democracy capable of effectively guaranteeing the protection of human rights.

51. Thus the basic question was what measures had been taken since 5 April 1992 by the President of the Republic, since everything depended on him and since there was no longer a congress, judicial power, constitutional order or independent courts to resolve those problems, which had supposedly been inherited from the past. What had been done to investigate disappearances, see to it that accused persons were given fair trials, respect the principle of the separation of powers and, generally speaking, ensure the full exercise of human rights?

52. Mr. AGUILAR URBINA said he would like a precise reply from the Peruvian delegation to two questions. First, did the Peruvian Government consider the political Constitution to be still in force? Second, what were the constitutional bases on which the emergency measures and the national reconstruction measures had been taken?

53. Mr. SADI said he believed that the additional written and oral information provided to the Committee confirmed the fact that Shining Path was indeed engaged in a process of terrorism. That having been said, the Committee felt that terrorism should under no circumstances be met with counter-terrorism. The dialogue with the Peruvian authorities would be more constructive if the latter shared the Committee's view. He pointed out that article 4 of the Covenant gave no grounds for exercising any form of counter-terrorism whatsoever, and that that article provided that there were certain rights from which no derogation was permitted. In particular, occurrences such as

disappearances and extrajudicial executions were deeply disturbing and were of crucial importance for the implementation of article 4 of the Covenant. In that connection, he would like to know what actual measures had been taken by the authorities to curb the tendency of the State security forces to combat terrorism with another form of terrorism, since that was in fact what was happening. The additional information provided by the Peruvian delegation did not shed sufficient light on all those points. Furthermore, there was perhaps a problem of communication between the civilian Government and the military apparatus in Peru, and it was important for the Committee to know more about that issue. Generally speaking, he would like to know how the authorities intended to enforce the provisions of article 4 in good faith. He would like them to promise to observe both the spirit and the letter of that article, and he hoped that the Peruvian delegation would indicate what efforts had been made to ensure that the armed forces would respect the provisions of the Covenant and that the acts of violence and brutal repression that continued to be committed would end.

54. Miss CHANET said that the additional information provided by the Peruvian delegation called for several remarks and questions. Paragraphs 2, 3 and 4 of document CCPR/C/51/Add.6, which described the background against which the measures of 5 April 1992 had been taken, contrasted with the remarks of the Peruvian delegation in New York at the previous session of the Committee. In particular, it was stated in paragraph 4 that the administration of justice had been a prey to political sectarianism, venality and irresponsibility. She noted that the Peruvian delegation had made some quite different statements at the previous session, where it had indeed discussed at length the daily context of violence and terrorism but stated that the authorities nevertheless had the situation in hand; the condition of the institutions had also seemed much less disastrous than the description contained in document CCPR/C/51/Add.6.

55. At its previous session, the Committee had made some very precise requests to the Peruvian delegation, having to do with the changes that had occurred since the consideration of the second periodic report (CCPR/C/51/Add.4), and not with the national legislation. It had to be acknowledged that the additional written and oral information provided contained nothing specifically concerning the events that had given rise to the decision of 5 April 1992, or concerning the implementation of the provisions of the Covenant during the previous three months. In particular, no information had been supplied on the suspension of institutions. Furthermore, the Committee had not been given copies of a number of decree-laws adopted in recent months, the exact wording of which would have helped it to have a clear idea of the situation in the country with regard to the provisions of the Covenant.

56. She endorsed Mr. Aguilar Urbina's question concerning the Constitution; in particular, she would like to know the legal basis for Decree-Laws Nos. 25418 and 25419. It would be all the more interesting to learn the legal basis for the adoption of Decree-Law No. 25419 because it suspended the administration of justice as a whole; in addition, the emergency Government of national reconstruction, acting against the procedural provisions laid down in the Constitution, had replaced the judges with other magistrates, and the National Council of the Magistrature, which participated in the appointment of judges, had been dissolved, despite the fact that no such measure was provided for in the Peruvian Constitution.

57. Regarding article 4 of the Covenant, she would like to know what circumstances had caused the decision of 5 April 1992 to be taken on that particular date, since violence was a daily occurrence in Peru. What were the current Government's powers? Had it provided the Secretary-General of the United Nations with information concerning the proclamation of the state of emergency in Peru, and which rights had been suspended under the state of emergency? What was the status of the rights from which article 4 of the Covenant permitted no derogation, in particular the right to life?

58. The video shown by the Peruvian delegation had left her somewhat confused as to the Peruvian authorities' conception of the implementation of article 6 of the Covenant, specifically the right to life. Regarding the existence of what might be called rural militias, she stressed that the State should not meet violence with violence, any more than it should permit the people to take justice into their own hands and to arm themselves, which was obviously the case in Peru today. By acting as they were, the authorities were contributing to the situation of violence, failing to respect the provisions of article 6 of the Covenant, and were generally not on the right course if they wished to restore a situation in which human rights were respected.

59. She was also puzzled regarding the indoctrination of detainees by Shining Path militants. She found it surprising that the authorities were obliged to allow the police into the prisons, at the risk of the lives of both the police and the detainees, to prevent the production of video films, publications by print shops or performances of plays for militant purposes, especially as places of detention were in principle closed spaces and easy to control. The authorities should not need to resort to such serious measures, which were obviously out of proportion to the situation. All those factors implied that the State did not have the required authority, and the situation as a whole raised problems with regard to the implementation of article 6 of the Covenant.

60. Finally, in more general terms, she would like to know what measures the Peruvian Government had taken to provide responses other than force and violence to the current crisis in the country.

61. Mr. MULLERSON said he regretted the fact that the additional information provided by the Peruvian delegation dealt only with legislation and not with practice.

62. Like other members of the Committee, he had already had occasion to condemn the atrocities committed by Shining Path and other political groups. However, that situation in no way justified counter-violence by the State, especially against innocent people. Numerous sources reported murders and violence committed by the police forces and certain paramilitary organizations. The Peruvian delegation had not provided any information on that issue. Instead of the video film that delegation had shown the Committee, he would have liked it to describe, using pictorial means if need be, the Government's efforts to combat the violence committed by the forces placed under its control. Regarding the state of emergency, in his view the attitude adopted by the authorities did not set a proper example for other countries that were also experiencing a difficult economic situation, social unrest and an increase in crime. Peru was obviously setting about tackling its problems in the wrong way.

63. He would like to know whether Peruvian law provided for the dissolution of the Congress after the proclamation of a state of emergency. He noted that, in many countries, Parliament exercised some control over the modalities of a state of emergency. He would also like to know what had been the results of the dissolution of the Congress and the steps taken with regard to the courts. The stated goal of those measures had been to combat terrorism, but he wondered whether they had been successful.

64. Regarding article 4 of the Covenant, paragraph 17 of document CCPR/C/51/Add.6 stated that "these rights, set forth in articles 6, 7, 8 (1) and (2) 11, 15, 16 and 18 of the Covenant, have always been respected [in Peru], having been embodied in the ... Constitution". At its previous session, however, the Committee had pointed out that articles 6 and 7 of the Covenant, which were its most important provisions, had been violated even before the proclamation of the state of emergency and the dissolution of Parliament. He would therefore like some clarifications on the current situation in that regard.

65. Mr. WENNERGREN, referring to article 4 of the Covenant, asked which rights had been suspended under the state of emergency. Like Mr. Müllerson, he had noted the reference in paragraph 17 of document CCPR/C/51/Add.6 to the effect that the provisions of article 4 (2) of the Covenant had always been respected in Peru, contrary to what the Peruvian delegation had just implied. It seemed that, under the Constitution, in cases where a state of emergency was proclaimed, the constitutional guarantees concerning liberty and security of person, in particular, were eliminated. Thus it was very important to clarify that question and to know whether or not certain rights could be suspended under a state of emergency, which ones, and under which decree-laws. He would like a very specific reply to those questions.

66. Regarding the question of judges' power, the Peruvian delegation had stated that judges could make a great contribution to promoting human rights, especially by conducting investigations, etc. In view of paragraph 10 of document CCPR/C/51/Add.5, he would like to know what measures had been taken to enable judges to conduct investigations and to strengthen their powers, against the background of the difficult situation prevailing in the country. Finally, at its previous session the Committee had asked for information on the murder of a judge, and the Peruvian delegation had promised to provide a written reply. Unfortunately, unless he was mistaken, the additional information provided did not contain any mention of that case.

67. The CHAIRMAN invited the members of the Committee to continue their consideration of the second periodic report of Peru (CCPR/C/51/Add.4, 5 and 6) at the following meeting.

The meeting rose at 1.05 p.m.